

7862--A

2013-2014 Regular Sessions

I N A S S E M B L Y

June 6, 2013

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees -- ordered to a third reading -- committed to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law and the civil service law, in relation to university police officers appointed by the state university of New York

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 11 of section 302 of the retirement and social
2 security law is amended by adding a new paragraph i to read as follows:
3 I. SERVICE AS A UNIVERSITY POLICE OFFICER APPOINTED BY THE STATE
4 UNIVERSITY OF NEW YORK PURSUANT TO PARAGRAPH L OF SUBDIVISION TWO OF
5 SECTION THREE HUNDRED FIFTY-FIVE OF THE EDUCATION LAW.
6 S 2. Subdivision d of section 375-f of the retirement and social secu-
7 rity law, as separately amended by chapters 674 and 677 of the laws of
8 1986, is amended to read as follows:
9 d. In addition to the retirement allowance provided pursuant to the
10 plans set forth in sections three hundred eighty-three, three hundred
11 eighty-three-a [and], three hundred eighty-three-b AND THREE HUNDRED
12 EIGHTY-THREE-D of this [chapter] ARTICLE, a member of [either] ANY such
13 plan who retires on or after April first, nineteen hundred sixty-nine
14 with more than twenty-five years of total service shall be entitled to
15 receive, in addition to the benefits provided pursuant to [either] ANY
16 such section and notwithstanding the limitations of [either] ANY such
17 section, an additional retirement allowance for such years of service
18 rendered in excess of twenty-five. The additional retirement allowance
19 for such additional years of service shall be computed as if such member
20 had been eligible to have his retirement allowance computed pursuant to
21 the provisions of subdivision b of section three hundred seventy-five-c

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD11315-03-4

1 and of paragraph one of subdivision a of section three hundred seventy-
2 five-d of this [chapter] TITLE.

3 S 3. The retirement and social security law is amended by adding a new
4 section 383-d to read as follows:

5 S 383-D. ALTERNATIVE RETIREMENT BENEFITS FOR UNIVERSITY POLICE OFFI-
6 CERS APPOINTED BY THE STATE UNIVERSITY. A. AS USED IN THIS SECTION, THE
7 TERM "UNIVERSITY POLICE OFFICER" SHALL MEAN A PERSON WHO IS SO APPOINTED
8 PURSUANT TO PARAGRAPH L OF SUBDIVISION TWO OF SECTION THREE HUNDRED
9 FIFTY-FIVE OF THE EDUCATION LAW.

10 B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW PROVIDING FOR TRANSFERS
11 BETWEEN RETIREMENT SYSTEMS, ANY UNIVERSITY POLICE OFFICER IN THE SERVICE
12 OF THE STATE UNIVERSITY WHO IS A MEMBER OF THE NEW YORK STATE EMPLOYEES'
13 RETIREMENT SYSTEM MAY TRANSFER TO THE NEW YORK STATE AND LOCAL POLICE
14 AND FIRE RETIREMENT SYSTEM AND SHALL RECEIVE CREDIT PURSUANT TO AND BE
15 ENTITLED TO THE RETIREMENT BENEFITS AFFORDED IN ACCORDANCE WITH THIS
16 SECTION. UPON ANY SUCH TRANSFER THE MEMBER SHALL BE ENTITLED TO THE
17 AMOUNT OF SERVICE WHICH WOULD HAVE BEEN DEEMED CREDITABLE HAD SUCH
18 MEMBER BEEN SUBJECT TO SUCH SYSTEM DURING THE COURSE OF HIS OR HER
19 MEMBERSHIP WITHIN SUCH SYSTEM. CONTRIBUTIONS TO SUCH SYSTEM SHALL BE
20 MADE IN ACCORDANCE WITH APPROPRIATE PROVISIONS OF LAW RELATING THERETO.
21 APPLICATION FOR SUCH TRANSFER MUST BE MADE TO THE STATE COMPTROLLER ON
22 OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN. THE PROVISIONS
23 OF SECTION THREE HUNDRED FORTY-THREE OF THIS ARTICLE SHALL APPLY TO ANY
24 MEMBER MAKING APPLICATION FOR TRANSFER UNDER THIS SUBDIVISION.

25 C. ANY UNIVERSITY POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSI-
26 TY WHO ELECTS OR IS REQUIRED TO CONTRIBUTE UNDER THIS SECTION SHALL
27 CONTRIBUTE TO THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT
28 SYSTEM ON THE BASIS OF RETIREMENT UPON HIS OR HER:

29 1. COMPLETION OF TWENTY-FIVE YEARS OF TOTAL CREDITABLE SERVICE; OR

30 2. ATTAINMENT OF AGE SIXTY AS A UNIVERSITY POLICE OFFICER IN THE
31 SERVICE OF THE STATE UNIVERSITY, IF PRIOR THERETO, ON AN ALLOWANCE OF
32 ONE-FIFTIETH OF HIS OR HER FINAL AVERAGE SALARY FOR EACH YEAR OF TOTAL
33 CREDITABLE SERVICE NOT IN EXCESS OF TWENTY-FIVE YEARS. SUCH ELECTION
34 SHALL BE IN WRITING AND SHALL BE DULY EXECUTED AND FILED WITH THE COMP-
35 TROLLER.

36 D. EVERY EMPLOYEE ENTERING OR RE-ENTERING SERVICE AS A UNIVERSITY
37 POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY ON OR AFTER THE
38 EFFECTIVE DATE OF THIS SECTION SHALL CONTRIBUTE ON THE BASIS PROVIDED
39 FOR BY THIS SECTION.

40 E. A MEMBER WHO IS REQUIRED TO CONTRIBUTE IN ACCORDANCE WITH THIS
41 SECTION SHALL CONTRIBUTE, IN LIEU OF THE PROPORTION OF COMPENSATION AS
42 PROVIDED IN SECTION THREE HUNDRED TWENTY-ONE OF THIS ARTICLE, A PROPOR-
43 TION OF HIS OR HER COMPENSATION SIMILARLY DETERMINED. SUCH LATTER
44 PROPORTION SHALL BE COMPUTED TO PROVIDE AT THE TIME WHEN HE OR SHE SHALL
45 FIRST BECOME ELIGIBLE FOR RETIREMENT UNDER THIS SECTION, AN ANNUITY
46 EQUAL TO ONE-ONE HUNDREDTH OF HIS OR HER FINAL AVERAGE SALARY FOR EACH
47 YEAR OF SERVICE AS A MEMBER PRIOR TO THE ATTAINMENT OF THE AGE WHEN HE
48 OR SHE SHALL FIRST BECOME ELIGIBLE FOR RETIREMENT. SUCH MEMBER'S RATE OF
49 CONTRIBUTION PURSUANT TO THIS SECTION SHALL BE APPROPRIATELY REDUCED
50 PURSUANT TO SECTION THREE HUNDRED SEVENTY-A OF THIS ARTICLE FOR SUCH
51 PERIOD OF TIME AS HIS OR HER EMPLOYER CONTRIBUTES PURSUANT TO SUCH
52 SECTION TOWARD PENSIONS-PROVIDING-FOR-INCREASED-TAKE-HOME-PAY. NO SUCH
53 MEMBER SHALL BE REQUIRED TO CONTINUE CONTRIBUTIONS AFTER COMPLETING
54 TWENTY-FIVE YEARS OF SUCH SERVICE.

55 F. A MEMBER CONTRIBUTING ON THE BASIS OF THIS SECTION, AT THE TIME OF
56 RETIREMENT, SHALL BE ENTITLED TO RETIRE AFTER THE COMPLETION OF TWENTY-

FIVE YEARS OF TOTAL CREDITABLE SERVICE OR UPON THE ATTAINMENT OF AGE SIXTY BY FILING AN APPLICATION THEREFOR IN A MANNER SIMILAR TO THAT PROVIDED IN SECTION THREE HUNDRED SEVENTY OF THIS ARTICLE. HE OR SHE SHALL RECEIVE, ON RETIREMENT, A RETIREMENT ALLOWANCE CONSISTING OF:

1. AN ANNUITY WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER ACCUMULATED CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT, PLUS

2. A PENSION WHICH, TOGETHER WITH SUCH ANNUITY AND A PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE RESERVE-FOR-INCREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE ENTITLED, IF ANY, SHALL EQUAL ONE-FIFTIETH OF HIS OR HER FINAL AVERAGE SALARY FOR EACH YEAR OF CREDITABLE SERVICE IN SUCH SERVICE. THIS PENSION SHALL NOT EXCEED THE AMOUNT NEEDED TO MAKE THE TOTAL AMOUNT OF THE BENEFITS PROVIDED UNDER THIS PARAGRAPH AND PARAGRAPH ONE OF THIS SUBDIVISION EQUAL TO ONE-HALF OF FINAL AVERAGE SALARY.

3. AN ADDITIONAL PENSION EQUAL TO THE PENSION FOR ANY CREDITABLE SERVICE RENDERED WHILE NOT EMPLOYED AS A UNIVERSITY POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY AS PROVIDED UNDER PARAGRAPHS TWO AND THREE OF SUBDIVISION A OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS ARTICLE. THIS PENSION SHALL:

(I) BE PAYABLE ONLY IF SUCH MEMBER HAS ATTAINED AGE SIXTY AT THE TIME OF RETIREMENT AND HAS NOT COMPLETED TWENTY-FIVE YEARS OF SERVICE AS A UNIVERSITY POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY FOR WHICH HE OR SHE RECEIVES CREDIT UNDER THIS ARTICLE, AND

(II) NOT INCREASE THE TOTAL ALLOWANCE TO MORE THAN HE OR SHE WOULD HAVE RECEIVED HAD HIS OR HER TOTAL SERVICE BEEN RENDERED AS A UNIVERSITY POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY. FOR THE PURPOSE ONLY OF DETERMINING THE AMOUNT OF THE PENSION PROVIDED HEREIN, THE ANNUITY SHALL BE COMPUTED AS IT WOULD BE:

(A) IF NOT REDUCED BY THE ACTUARIAL EQUIVALENT OF ANY OUTSTANDING LOAN, AND

(B) IF NOT INCREASED BY THE ACTUARIAL EQUIVALENT OF ANY ADDITIONAL CONTRIBUTIONS, AND

(C) IF NOT REDUCED BY REASON OF THE MEMBER'S ELECTION TO DECREASE HIS OR HER ANNUITY CONTRIBUTIONS TO THE RETIREMENT SYSTEM IN ORDER TO APPLY THE AMOUNT OF SUCH REDUCTION IN PAYMENT OF HIS OR HER CONTRIBUTIONS FOR OLD-AGE AND SURVIVORS INSURANCE COVERAGE.

G. THE INCREASED PENSIONS TO A UNIVERSITY POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY, AS PROVIDED BY THIS SECTION, SHALL BE PAID FROM ADDITIONAL CONTRIBUTIONS MADE BY THE STATE ON ACCOUNT OF SUCH MEMBERS. THE ACTUARY OF THE RETIREMENT SYSTEM SHALL COMPUTE THE ADDITIONAL CONTRIBUTION OF EACH MEMBER WHO ELECTS TO RECEIVE THE SPECIAL BENEFITS PROVIDED UNDER THIS SECTION. SUCH ADDITIONAL CONTRIBUTIONS SHALL BE COMPUTED ON THE BASIS OF CONTRIBUTIONS DURING THE PROSPECTIVE SERVICE OF SUCH MEMBER WHICH WILL COVER THE LIABILITY OF THE RETIREMENT SYSTEM FOR SUCH EXTRA PENSIONS. UPON APPROVAL BY THE COMPTROLLER, SUCH ADDITIONAL CONTRIBUTIONS SHALL BE CERTIFIED BY HIM OR HER TO THE CHANCELLOR OF THE STATE UNIVERSITY. THE AMOUNT THEREOF SHALL BE INCLUDED IN THE ANNUAL APPROPRIATION OF THE STATE FOR THE STATE UNIVERSITY. SUCH AMOUNT SHALL BE PAID ON THE WARRANT OF THE COMPTROLLER TO THE PENSION ACCUMULATION FUND OF THE RETIREMENT SYSTEM.

H. IN COMPUTING THE TWENTY-FIVE YEARS OF COMPLETED SERVICE OF A UNIVERSITY POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY, FULL CREDIT SHALL BE GIVEN AND FULL ALLOWANCE SHALL BE MADE FOR SERVICE OF SUCH MEMBER IN WAR AFTER WORLD WAR I AS DEFINED IN SECTION TWO OF THIS CHAPTER, PROVIDED SUCH MEMBER AT THE TIME OF HIS OR HER ENTRANCE INTO THE ARMED FORCES WAS IN STATE SERVICE, AND FULL CREDIT AND FULL ALLOWANCE SHALL BE MADE FOR SERVICE AS A UNIVERSITY PEACE OFFICER PRIOR TO

1 THE EFFECTIVE DATE OF CHAPTER FOUR HUNDRED TWENTY-FOUR OF THE LAWS OF
2 NINETEEN HUNDRED NINETY-EIGHT.

3 I. THE PROVISIONS OF THIS SECTION SHALL BE CONTROLLING NOTWITHSTANDING
4 ANY PROVISION IN THIS ARTICLE TO THE CONTRARY.

5 J. NOTWITHSTANDING ANY PROVISION OF SUBDIVISION D, E OR I OF THIS
6 SECTION TO THE CONTRARY, A MEMBER WHO IS IN THE COLLECTIVE NEGOTIATING
7 UNIT DESIGNATED AS THE AGENCY POLICE SERVICES UNIT AND ESTABLISHED
8 PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW AND WHO HAS
9 ELECTED OR IS REQUIRED TO CONTRIBUTE IN ACCORDANCE WITH THIS SECTION
10 MAY, ON OR BEFORE MARCH THIRTY-FIRST, TWO THOUSAND FIFTEEN, ELECT TO
11 COME UNDER THE PROVISIONS OF SECTION THREE HUNDRED SEVENTY-FIVE-H OF
12 THIS ARTICLE. SUCH ELECTION SHALL BE DULY EXECUTED AND FILED WITH THE
13 COMPTROLLER.

14 K. COMMENCING WITH THE EFFECTIVE DATE OF THIS SECTION AND IN A MANNER
15 DETERMINED BY THE HEAD OF THE RETIREMENT SYSTEM, THE STATE, AS EMPLOYER,
16 SHALL MAKE CONTRIBUTIONS TO THE RETIREMENT SYSTEM TO FUND THE PAST
17 SERVICE LIABILITY COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS
18 SECTION AS THOSE COSTS ARE CALCULATED BY THE RETIREMENT SYSTEM ACTUARY.
19 SUCH CONTRIBUTIONS MAY, AT THE ELECTION OF THE EMPLOYER, BE AMORTIZED
20 OVER A TEN YEAR PERIOD.

21 S 4. No employee contributions made to the New York state and local
22 employees' retirement system by any state university police officer who
23 elects to transfer pursuant to this act shall be returned to such offi-
24 cer. Such employee contributions shall be used to offset any past
25 service costs incurred by operation of the provisions of this act.

26 S 5. Notwithstanding subdivision h of section 343 of the retirement
27 and social security law, the provisions of subdivisions c and d of
28 section 343 of the retirement and social security law shall apply and
29 the employer contributions reserve shall be transferred from the appro-
30 priate fund or funds of the New York state and local employees' retire-
31 ment system to the New York state and local police and fire retirement
32 system.

33 S 6. Subdivision 3 of section 58 of the civil service law, as amended
34 by chapter 244 of the laws of 2013, is amended to read as follows:

35 3. As used in this section, the term "police officer" means a police
36 officer in the department of environmental conservation, THE STATE
37 UNIVERSITY POLICE, a member of the regional state park police or a
38 police force, police department, or other organization of a county,
39 city, town, village, housing authority, transit authority or police
40 district, who is responsible for the prevention and detection of crime
41 and the enforcement of the general criminal laws of the state, but shall
42 not include any person serving as such solely by virtue of his or her
43 occupying any other office or position, nor shall such term include a
44 sheriff, under-sheriff, commissioner of police, deputy or assistant
45 commissioner of police, chief of police, deputy or assistant chief of
46 police or any person having an equivalent title who is appointed or
47 employed to exercise equivalent supervisory authority.

48 S 7. Paragraphs (a) and (b) of subdivision 4 of section 58 of the
49 civil service law, as amended by chapter 244 of the laws of 2013, are
50 amended to read as follows:

51 (a) Any person who has received provisional or permanent appointment
52 in the competitive class of the civil service as a police officer of the
53 regional state park police, THE STATE UNIVERSITY OF NEW YORK POLICE, the
54 department of environmental conservation or any police force or police
55 department of any county, city, town, village, housing authority, trans-
56 it authority or police district shall be eligible to resign from any

1 police force or police department, and to be appointed as a police offi-
2 cer in the same or any other police force or police department without
3 satisfying the age requirements set forth in paragraph (a) of subdivi-
4 sion one of this section at the time of such second or subsequent
5 appointment, provided such second or subsequent appointment occurs with-
6 in thirty days of the date of resignation.

7 (b) Any person who has received permanent appointment in the compet-
8 itive class of the civil service as a police officer of the regional
9 state park police, THE STATE UNIVERSITY OF NEW YORK POLICE, the depart-
10 ment of environmental conservation or any police force or police depart-
11 ment of any county, city, town, village, housing authority, transit
12 authority or police district shall be eligible to resign from any police
13 force or police department and, subject to such civil service rules as
14 may be applicable, shall be eligible for reinstatement in the same
15 police force or police department or in any other police force or police
16 department to which he or she was eligible for transfer, without satis-
17 fying the age requirements set forth in paragraph (a) of subdivision one
18 of this section at the time of such reinstatement, provided such rein-
19 statement occurs within one year of the date of resignation.

20 S 8. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would allow State University Police Officers to elect to transfer to the New York State and Local Police and Fire Retirement System and to be covered by the provisions of a new twenty-five (25) year half pay retirement plan, with additional one-sixtieths of final average salary for each year of service in excess of twenty-five (25) years, but not exceeding fifteen (15) such years. For Tiers 2, 5, and 6 members, the additional one-sixtieths can not exceed seven (7) such years. There will be no refund of Article 14 or Article 15 member contributions for officers who elect to transfer to the Police and Fire Retirement system.

If this bill is enacted, we anticipate that there will be an increase of approximately \$1.4 million in the annual contributions of the State of New York for the fiscal year ending March 31, 2015.

In addition to the annual contributions discussed above, it is estimated that there will be an immediate past service cost of \$10.2 million which would be borne by the State of New York, assuming that payment will be made on March 1, 2015. If this cost is amortized over ten (10) years, the cost for the first year, including interest, would be \$1.39 million.

These estimated costs are based on five hundred eighty (580) State University Police Officers with a total estimated salary of approximately \$39 million for the fiscal year ending March 31, 2013.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2013 actuarial valuation. Distributions and other statistics can be found in the 2013 Report of the Actuary and the 2013 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2010, 2011, 2012 and 2013 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2013 New York State and Local Retirement System Financial Statements and Supplementary Information.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This estimate, dated January 24, 2014 and intended for use only during the 2014 Legislative Session, is Fiscal Note No. 2014-61 prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.